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## In the United States Patent and Trademark Office

Appellants:	Maria E. de Leon, Andrew M. Long, Shirlee A. Weber	Docket No.:	19,245
Serial No.:	10/632,258	Group:	3751
Confirmation No.:	5492	Examiner:	Khoa D. Huynh
Filed:	July 31, 2003	Date:	December 19, 2006
For:	Mat Featuring A Removable Portion		

## Appeal Brief Transmittal Letter

Mail Stop Appeal Brief - Patents  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450


Sir:

Pursuant to 37 C.F.R. 41.37, transmitted herewith is an Appeal Brief pursuant to the Notice of Appeal which was submitted by facsimile transmission on August 10, 2005 and pursuant to the Notification of Non-Compliant Appeal Brief which was mailed on November 30, 2006.

Please charge the \$500.00 fee (fee code 1402), pursuant to 37 C.F.R. 41.20(b)(2), which is due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,

MARIA E. DE LEON ET AL.

By:   
Sebastian C. Pugliese III  
Registration No.: 42,091

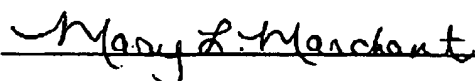
## CERTIFICATE OF TRANSMISSION

I, Mary L. Marchant, hereby certify that on December 19, 2006 this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

Typed or printed name of person signing this certificate:

Mary L. Marchant

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**Brief on Appeal to the Board of Patent Appeals and Interferences**

Mail Stop Appeal Brief - Patents  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 41.37 Appellants respectfully submit this Brief in support of their Appeal of Examiner Huynh **Final Rejection** of claims 1-4, 8, 11-19, 32, and 33 which was mailed on June 14, 2006.

On September 14, 2006, Appellants, pursuant to 37 C.F.R. 41.31 mailed a timely Notice of Appeal. Thus, the time period for filing this Brief ends on November 14, 2006.

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**Real Party in Interest**

The present Application has been assigned to the Kimberly-Clark Worldwide, Inc.

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**Related Appeals and Interferences**

There are no related appeals and/or interferences with regard to the present Application.

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**Status of Claims**

Claims 1 - 33 remain in the application with claims 1-4, 8, 11-19, 32, and 33 being finally rejected. Claims 5-7, 9, 10, and 20-31 have been withdrawn.

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**Status of Amendments**

There were no amendments filed after the Final Office Action.

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**Summary of Claimed Subject Matter**

Claim 1. The invention as described in claim 1 provides for a disposable mat comprising a line of weakness that separates a removable portion of the disposable mat from the remainder of the mat. The disposable mat also comprises a holding mechanism on a face of the mat that increases resistance of the mat to movement on a planar surface. (See, e.g., page 2, lines 15-22.)

Claim 32. The invention as described in claim 32 provides for a disposable mat comprising a line of weakness that separates a removable portion of the disposable mat from the remainder of the mat. One face of the mat is liquid impermeable, while the other face of the mat is absorbent. The disposable mat also comprises a holding mechanism on the liquid-impermeable face of the mat that increases resistance of the mat to movement on a planar surface. The mat also includes reference marks on the absorbent face of the mat to indicate where the feet of a user of the mat should be placed. (See, e.g., page 2, lines 24-34.)

Claim 33. The invention as described in claim 33 provides for a disposable mat comprising a decorative graphic on the face of the mat. The decorative graphic on the mat has a theme that is related to the theme of article graphics on a disposable absorbent article. (See, e.g., page 3, lines 1-5.)

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**Grounds of Rejection to be Reviewed on Appeal**

1. The Examiner rejected claim 33 as anticipated by Frankel (U.S. Patent Number 5,375,271). We disagree, for reasons outlined in the following section.
2. The Examiner rejected claims 1-4, 8, 11-17, 31, and 32 as obvious over Tsuneki (JP 2002-165729) in view of Mason III (U.S. Patent No. 5,379,558). We disagree, for reasons outlined in the following section.

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**Argument****1. Rejection Under 35 U.S.C. § 102**

Frankel does not disclose each and every element of the claimed invention.

Frankel is directed to a bath mat having temperature related indicia imprinted on a top side surface. See Abstract. Claim 33 of the present invention is directed to a disposable mat including, *inter alia*, "[a]t least one decorative graphic located on said second face, wherein said at least one decorative graphic has a decorative graphic theme and wherein said decorative graphic theme is related to the

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theme of article graphics of a disposable absorbent article."

Applicants assert that the bath mat of Frankel fails to disclose a mat including decorative graphics having a decorative graphic theme where the decorative graphic theme is related to the theme of article graphics of a disposable absorbent article. On pages 3 and 4 of the Office Action dated June 14, 2006, the Examiner argues that "the head of an elephant" or "an elephant head with bubbles coming out of the elephant's trunk" is inherently related to the theme of the article graphics of a known disposable diaper (see cited US 6297424 and US 2005/0015066)." Applicants disagree. First, the Examiner presents no analysis on what exactly is disclosed in multiple references—not a single reference—when asserting that the present invention is anticipated. The Examiner presents no analysis on how an article graphic of a disposable absorbent article is purportedly described in the secondary references, and how this purportedly inherent article graphic and its theme is related to a decorative graphic—and its decorative theme—on a face of a disposable mat. Secondly, Applicants assert that bubbles are not thematically related to an elephant's head. While the bubbles may be coming out of the elephant's trunk, they are not related via a common theme with the picture of the elephant's head. Moreover, claim 33 sets forth that the article graphics are "of a disposable absorbent article." Frankel does not disclose the bath mat having graphics that have a decorative graphic theme related to the graphics on a separate item, let alone the article graphics of a disposable absorbent article, such as a child's training pant, as described on Page 15, lines 16-29 of the specification. Accordingly, for at least these reasons, Applicants submit that claim 33 is patentable over Frankel.

**2. Rejection of Claims 1-4, 8, 11-17, 31, and 32 Over Tsuneki (JP 2002-165729) In view of Mason III (5379558) Under 35 U.S.C. § 103.**

The Examiner has not identified any suggestion, teaching, or motivation to combine the cited references.<sup>1</sup> And an evaluation of the cited references shows that there is no such suggestion, teaching, or motivation. Mason III appears to disclose, e.g., a "very dense, multi-directional needled batting of synthetic fibers" that are "saturated in a resin" that also contains "ultraviolet inhibitors, a selected colorant, and a fire-retardant." (See col. 4, lines 47-52.) The resulting mat, so treated, is protected from "deterioration due to sunlight and exposure from the environment for many years of use." (See col. 4, lines 61-63). That such mats are required to withstand many years of exposure to outside elements is evident from the disclosed use of the mat with "fire hydrants, pedestals for containing telephone equipment and electrical circuitry, gas vents, utility poles, guy wires, and the like." (See col. 3, lines 44-49.) Such explicit examples of uses are consistent with the disclosed mat being used generally "in conjunction with ground anchored structures that extend upwardly from an outdoor

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<sup>1</sup> *In re Dembiczak*, No. 98-1498 (Fed. Cir. Dec. 28 April 1999). The Court of Appeals for the Federal Circuit reversed obviousness rejections by the Board of Patent Appeals and Interferences because the Board failed to identify any suggestion, teaching, or motivation to combine prior art references asserted against the applicant's claims. Slip op. at 8.

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ground surface." (See col. 3, lines 44-46.) These very dense, resin-impregnated mats, designed for many years of outdoor use, may be cut—e.g., with "a sharp blade"—when used with an outdoor, ground-anchored structured. (See generally Abstract; see also, e.g., col. 5, lines 30-40.)

The Examiner has not pointed to a teaching, motivation, or suggestion, within the four corners of a document on very-dense, resin-impregnated mats, designed for many years of outdoor use, and which may be cut, with a sharp knife, when used in conjunction with outdoor, ground-anchored structures (Mason III), that would lead a person of ordinary skill to combine its teachings with what appear to be images of articles used on floors around bathroom fixtures (Tsuneki). Similarly, the Examiner has not pointed to a teaching, motivation, or suggestion, within the four corners of a document depicting what appear to be images of articles used on floors around bathroom fixtures (Tsuneki), that would lead a person of ordinary skill to combine its teachings with a document on very-dense, resin-impregnated mats, designed for many years of outdoor use, and which may be cut, with a sharp knife, when used in conjunction with outdoor, ground-anchored structures (Mason III). Nor can the Examiner find such teaching, motivation, or suggestion.

Even if the references were combined, the combined references do not render obvious the present invention. The combined references potentially teach the scoring of a very dense, resin-impregnated mat, designed for many years of outdoor use, *so that it may be cut with a sharp blade*. (See, e.g., Tsuneki at col. 5, lines 34-40.) Nowhere do the combined references teach employing a line of weakness in a disposable mat, the line of weakness being configured to allow separation of a removable portion of the disposable mat. Note too the dissimilarity of the subject matter of the invention versus the subject matter of the cited reference: the present invention being directed to a *disposable* mat; the Tsuneki references being directed to a mat for *years* of outdoor use.

Accordingly we respectfully request that the Examiner withdraw his obviousness rejection based on this combination of references.

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**Conclusion**

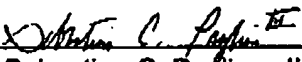
For the reasons stated above it is Appellants' position that the Examiner's rejection of claims has been shown to be untenable and should be reversed by the Board.

Please charge the \$500.00 fee (fee code 1402), pursuant to 37 C.F.R. 41.20(b)(2), for filing this Appeal Brief to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. Any additional prosecutorial fees which are due may also be charged to deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2747.

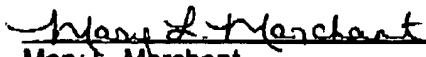
Respectfully submitted,

MARIA E. DE LEON ET AL.

By:   
Sebastian C. Pugliese III  
Registration No.: 42,091

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Mary L. Marchant

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**Claims Appendix**

The claims on appeal are:

1. (Original) A disposable mat defining a longitudinal direction, a lateral direction and at least one edge, said disposable mat comprising:

A first face;

A second face opposite said first face;

At least one line of weakness, said at least one line of weakness being configured to allow the separation of a removable portion from said disposable mat; and

A holding mechanism configured to increase the resistance of said mat to movement when said first face of said mat is placed upon a planar surface.

2. (Original) The mat of claim 1 wherein said first face is liquid impermeable.

3. (Original) The mat of claim 1 wherein said at least one line of weakness is provided by perforations.

4. (Original) The mat of claim 1 wherein said at least one line of weakness is provided by ultrasonic bonds.

5. (Withdrawn) The mat of claim 1 wherein said at least one line of weakness intersects with said at least one edge in at least two points.

6. (Withdrawn) The mat of claim 1 further comprising a plurality of lines of weakness.

7. (Withdrawn) The mat of claim 6 further comprising a first end edge and a second end edge and wherein a first line of weakness is located adjacent a first end edge and a second line of weakness is located adjacent a second end edge.

8. (Original) The mat of claim 1 wherein said at least one line of weakness is curvilinear.

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9. (Withdrawn) The mat of claim 1 wherein said at least one line of weakness is shaped such that upon separating said removable portion, said mat includes a pair of laterally spaced extensions.

10. (Withdrawn) The mat of claim 9 wherein said laterally spaced extensions are separated by at least 22 cm in said lateral direction.

11. (Original) The mat of claim 1 further defining a mat perimeter, and wherein said at least one line of weakness is shaped such that upon separating said removable portion from said mat, said mat includes an opening within said mat perimeter.

12. (Original) The mat of claim 11 wherein at least a portion of said opening is at least 22 cm wide.

13. (Original) The mat of claim 1 further comprising a pair of first reference marks located on said second face and wherein said pair of first reference marks is configured to indicate where the feet of the user should be placed when the user is toileting.

14. (Original) The mat of claim 13 wherein said pair of first reference marks is each located a first substantially equal distance from said at least one line of weakness.

15. (Original) The mat of claim 14 wherein said first substantially equal distance is between 5 cm and 22 cm.

16. (Original) The mat of claim 13 wherein each of said pair of first reference marks are provided by a set of first graphics and wherein said set of first graphics are substantially similar.

17. (Original) The mat of claim 13 wherein said pair of first reference marks are depicted by a pair of foot prints.



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18. (Original) The mat of claim 13 further comprising at least one decorative graphic located on said second face, wherein said at least one decorative graphic has a decorative graphic theme and said pair of first reference marks are provided by a set of first graphics, and wherein said set of first graphics are related to said decorative graphic theme.

19. (Original) The mat of claim 18 wherein said decorative graphic theme is related to the theme of article graphics of a disposable absorbent article.

20. (Withdrawn) The mat of claim 1 further comprising

a pair of first reference marks located on said second face; and

a pair of second reference marks located on said second face;

wherein said pair of first reference marks are configured to indicate where the feet of the user should be placed when the user is standing when toileting, and wherein said pair of second reference marks are configured to indicate where the feet of the user should be placed when the user is sitting when toileting.

21. (Withdrawn) The mat of claim 20 wherein said pair of first reference marks are provided by a set of first graphics and said pair of second reference marks are provided by a pair of second graphics that are different than said set of first graphics.

22. (Withdrawn) The mat of claim 20 wherein said pair of first reference marks are each located a first substantially equal distance from said first line of weakness and said pair of second reference marks are each located a second substantially equal distance from said first line of weakness, and wherein said first substantially equal distance is between 5 cm and 22 cm and said second substantially equal distance is between 12 cm and 30 cm.

23. (Withdrawn) The mat of claim 1 further comprising a pair of first reference marks located on said second face and a potty location mark located on said second face wherein said pair of first reference marks is each located a first substantially equal distance from said potty location mark.

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24. (Withdrawn) The mat of claim 1 further comprising:

a first line of weakness;

a second line of weakness located in an opposing area of said mat;

a pair of first reference marks located on said second face; and

a pair of second reference marks located on said second face;

wherein said pair of first reference marks are each located a first substantially equal distance from said first line of weakness and said pair of second reference marks are each located a substantially equal second distance from said second line of weakness, and wherein said pair of first reference marks are configured to indicate where the feet of the user should be placed when the user is standing when toileting, and wherein said pair of second reference marks are configured to indicate where the feet of the user should be placed when the user is sitting when toileting.

25. (Withdrawn) The mat of claim 1 wherein said holding mechanism is at least one weight attached to said mat.

26. (Withdrawn) The mat of claim 1 wherein said holding mechanism provides a static coefficient of friction of at least 0.5 as defined by the coefficient of friction test set forth herein.

27. (Withdrawn) The mat of claim 26 wherein said holding mechanism is provided by said first face.

28. (Withdrawn) The mat of claim 1 wherein said second face is relatively more absorbent than said first face.

29. (Withdrawn) The mat of claim 1 wherein said second face is absorbent at least adjacent said line of weakness.

30. (Withdrawn) The mat of claim 1 wherein said mat is provided by at least two layers of material.

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31. (Withdrawn) The mat of claim 1 wherein said mat has a substantially rectilinear shape.

32. (Original) A disposable mat defining a longitudinal direction; a lateral direction; a pair of side edges that are parallel to said longitudinal direction and a pair of end edges that are parallel to said lateral direction, said disposable mat comprising:

An operatively liquid impermeable first face;

An absorbent second face opposite said first face;

At least one line of weakness, said at least one line of weakness being configured to allow the removal of a portion of said disposable mat;

A holding mechanism configured to increase the resistance of said mat to movement when said first face of said mat is placed upon a planar surface; and

A pair of first reference marks located on said second face, said pair of first reference marks being configured to indicate where the feet of the user should be placed when the user is toileting.

33. (Original) A disposable mat defining a longitudinal direction; a lateral direction; and at least one edge; said disposable mat comprising:

A first face;

A second face opposite said first face;

At least one decorative graphic located on said second face, wherein said at least one decorative graphic has a decorative graphic theme and wherein said decorative graphic theme is related to the theme of article graphics of a disposable absorbent article.

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**Evidence Appendix**

None.

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**Related Proceedings Appendix**

None.